

[SC00-2510: Judicial Qualifications Commission's Answers to Interrogatories.]

[Answer to Interrogatory No. 1.]

The JQC objects to this interrogatory on the ground that pursuant to Article V, Section 12(a)(4) of the Florida Constitution and Commission Rule 24, until formal charges against a judge are filed, all proceedings by or before the Commission are confidential and on the ground that the interrogatory requests information that is neither relevant nor calculated to lead to the discovery of admissible evidence.

[Answer to Interrogatory No. 2.]

See Response to Motion to Dismiss, page 6 n.3. See also In the Matter of Fine, 13 P.3d 400 (Nev. 2000); and Sherman v. State, 905 P.2d 355 (Wash. 1996).

[Answer to Interrogatory No. 3.]

The charges are based upon contacts Judge Baker had with unidentified computer consultants and experts concerning technical issues related to the issue of damages in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. C10-95-3614, in the Circuit Court, Ninth Judicial Circuit, in and for Orange County, Florida.

[Answer to Interrogatory No. 4.]

The JQC is not aware of whether the unidentified computer consultants and experts attempted to influence the decision of Judge Baker in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., but is unaware of any other person who, outside the presence of the parties or their counsel, attempted to influence the decision of Judge Baker in the case.

[Answer to Interrogatory No. 5.]

The formal charge is that the acts for which Judge Baker is charged "if they occurred . . . would impair the confidence of the citizens of this state in the integrity of the judicial system and you as a judge, would constitute conduct unbecoming a member of the judiciary, could demonstrate your present unfitness to hold the office of judge, and could warrant discipline including removal from office, and discipline as an attorney."

The precedent relied upon is set forth in the Response to Motion to Dismiss. Additional cases addressing the issue are: Rosado v. Last Great American Enterprises, Inc., 562 So.2d 421 (Fla.5th DCA 1990); In the Matter of Fine, 13 P.3d 400 (Nev. 2000); In Re: Marriage of Terry, 100 Wash.App. 1035 (Wash.App. 2000); In the Matter of Tesmer, 580 N.W.2d 307 (Wis. 1998); Sherman v. State, 905 P.2d 355 (Wash. 1996).

[Answer to Interrogatory No. 6.]

Canon 3B(7) prohibits a judge from initiating, permitting or considering ex parte communications or considering other communications outside the presence of the parties concerning a pending or impending proceeding except as provided in subparagraphs (a) - (e). See Answer to Interrogatory No. 5.

[Answer to Interrogatory No. 7.]

The evidence known at this time does not suggest that Judge Baker was not acting in good faith at the time he made the inquiry of the unidentified computer consultants and experts in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. C10-95-3614, but the issue is ultimately one for a determination of the Commission and the Supreme Court of Florida based upon all of the evidence and the totality of the circumstances.

[Answer to Interrogatory No. 8.]

Canon 3B(7) is not a limitation or restriction on the independence of the judiciary. The Commission objects to the remainder of this interrogatory on the ground that it requests the Commission to take a position on issues that are broader than those related to the formal charges and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 9.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 10.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 11.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 12.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 13.]

The Commission objects to this interrogatory on the ground that it seeks information that, pursuant to Article 5, Section 12(a)(4) of the Florida Constitution and Commission Rule 24, is confidential.

[Answer to Interrogatory No. 14.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 15.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 16.]

See Answer to Interrogatory No. 7.

[Answer to Interrogatory No. 17.]

During the pendency of the case of Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. C10-95-3614, Judge Baker, without disclosure to counsel or the litigants, made inquiries of several computer consultants and experts concerning technical issues relating to the issue of damages in the case and, subsequently, reduced a jury award of damages in favor of Universal Business Systems, Inc. to a nominal amount, and disclosed in a memorandum explaining his decision, that he took the information he obtained from the unidentified computer consultants and experts into consideration in reaching his decision.

[Answer to Interrogatory No. 18.]

See answer to Interrogatory No. 17.

[Answer to Interrogatory No. 19.]

Joseph P. Baker, Circuit Judge; Stanford R. Solomon, The Solomon Law Group, P.A. 400 N. Ashley Plaza, Suite 3000, Tampa, Florida 33602; David C. Willis, 225 E. Robinson Street, Suite 600, Orlando, Florida 32802; and John Edwin Fisher, Suite 1500, First Union Building, 200 N. Orange Avenue, Orlando, Florida 32802.

[Answer to Interrogatory No. 20.]

Charles P. Pillans, III, Bedell, Dittmar, DeVault, Pillans & Coxe P.A., 101 East Adams Street, Jacksonville, Florida 32202:

(a) Decision of the District Court of Appeal in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. 5D99-2800, decided July 7, 2000.

(b) Memorandum of Ruling in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. C10-95-3614, in the Circuit Court, Ninth Judicial Circuit, in and for Orange County, Florida.

(c) Memorandum entitled "History of the Case," Draft May 13, 1999.

(d) Transcript of the Investigative Panel hearing on November 10, 2000.

Stanford R. Solomon, The Solomon Law Group, P.A. 400 N. Ashley Plaza, Suite 3000, Tampa, Florida 33602:

(a) Transcript of trial proceedings in Universal Business Systems, Inc. v. Disney Vacation Club Management Corp., Case No. C10-95-3614, in the Circuit Court, Ninth Judicial Circuit, in and for Orange County, Florida, for the afternoon session May 14, 1999.

John Edwin Fisher, Suite 1500, First Union Building, 200 N. Orange Avenue, Orlando, Florida 32802:

(a) Plaintiff's Verified Motion for Recusal and to Disqualify, with exhibits, in Super Vision International, Inc. v. Caruso, Case No. CI-99-9392, in the Circuit Court, Ninth Judicial Circuit, in and for Orange County, Florida.

(b) Plaintiff's Second Verified Motion for Recusal and Disqualification, with exhibits, in Super Vision

International, Inc. v. Caruso, Case No. CI-99-9392, in the Circuit Court, Ninth Judicial Circuit, in and for Orange County, Florida.

[Answer to Interrogatory No. 21.]

The Commission has no written statements or transcripts of testimony of witnesses which are relevant to the subject matter of the hearing which have not been produced. The Commission objects to this interrogatory to the extent that it requests information other than written statements because it is vague, overly broad and invades the attorney work product privilege.

[Answer to Interrogatory No. 22.]

At the present time, the Commission does not intend to call any expert witnesses at the hearing.

[Answer to Interrogatory No. 23.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions.

[Answer to Interrogatory No. 24.]

The Commission objects to this interrogatory on the grounds that it requests the Commission to take a position on issues that are broader than those related to the formal charges, is vague and requests the Commission to respond to hypothetical questions. The Commission further objects on the ground that the particular facts that the Commission considered justifying an investigation and the issuance of formal charges are, pursuant to Article V, Section 12(a)(4) of the Florida Constitution and Commission Rule 24, confidential.

[Answer to Interrogatory No. 25.]

The Commission will call Judge Joseph P. Baker. The Commission may call Stanford R. Solomon, The Solomon Law Group, P.A. 400 N. Ashley Plaza, Suite 3000, Tampa, Florida 33602; David C. Willis, 225 E. Robinson Street, Suite 600, Orlando, Florida 32802; and John Edwin Fisher, Suite 1500, First Union Building, 200 N. Orange Avenue, Orlando, Florida 32802.

[Answer to Interrogatory No. 26.]

Charles P. Pillans, III, Esquire, Bedell, Dittmar, DeVault,
Pillans & Coxe P.A., 101 East Adams Street, Jacksonville,
Florida 32202, Special Counsel to the Judicial Qualifications
Commission.